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October 31, 1994

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: Oral Ex Parte Presentation in PP Docket No. 93-253;
Definition of Investment Company Which May Participate in
Designated Entity Control Groups

Dear Mr. Caton:

Pursuant to Section 1.1206(a)(2) of the Commission's rules, this letter is to provide an original and one copy of a notice of ex parte presentation made on October 27, 1994 by George Hertz, Fidelity Corporation and Gerald McGowan and Terry Romine of Lukas McGowan Nace & Gutierrez, Chartered to Commissioner James H. Quello and Rudolfo M. Baca, Legal Advisor to Commissioner Quello and by George Hertz and David Weinstein, Fidelity Corporation, and Gerald McGowan and Terry Romine to Donald Gips, Deputy Chief, Office of Plans and Policy; Andrew Sinwell, Policy Associate, Office of Policy and Planning; and Sara P. Seidman, Esq., Special Assistant, Office of General Counsel. A copy of the material distributed at each meeting is attached.

Respectfully submitted,


Terry J. Romine

Enclosure

cc: Rudolfo M. Baca, Esq.
Donald Gips
Andrew Sinwell
Sara Seidman, Esq.

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Definition Control Group for Designated Entity

--Permit Control Group to be comprised of passive investors which may not be considered eligible as Designated Entity/Entrepreneurs' block

--Passive Investor at least 10% equity; conversely, Designated Entity has 15% of equity of control group and 50.1% of voting interest

--DE is still in control of control group

--Passive Investor is not there to manage day-to-day operations but to guide strategic financial decisions

--Need definition of Passive Investor in Control Group to ensure that "partner" with Designated Entity rather than captive DE to develop strategic plan involving A and B blocks.

--Understand that considering incorporating the definition of investment company which is found in § 80a-3.

--Problem with this definition is that will restrict those companies which FCC may wish to encourage, i.e. venture capital firms

Proposed Definitions of Investment Company:

A:

Investment company, as defined in Section 15 U.S.C. § 80a-3(a) and (b), and without reference to or incorporation of the exemptions set forth in 15 U.S.C. 80a-3(c), provided, however, an entity which is affiliated with or a subsidiary of any company which is subject to the Modified Final Judgement shall not be considered to be an investment company for purposes of this section.

OR

B:

Investment company, for purposes of this section, shall mean an entity which is or holds itself out as being engaged primarily, or proposes to engage primarily, in the business of investing, reinvesting, or trading in securities, whether such securities are publicly or privately traded; provided, however, an entity which is affiliated with or a subsidiary of any company which is subject to the Modified Final Judgement shall not be considered to be an investment company for purposes of this section.